

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE



Post-hearing Questions for

Mr. Christopher Fonzone upon his nomination to be

General Counsel of the Office of the Director of National Intelligence

[From Vice Chairman Rubio]

1. How would your prior work for clients with ties to China (such as the Ministry of Commerce, Huawei, and Apple) pose conflicts with potential work, if you are confirmed as ODNI GC?

My prior work would not impact my ability to provide objective legal advice to Director Haines or others at the Office of the Director of National Intelligence (ODNI) in support of its important national security mission. My private practice was principally focused on helping clients understand and comply with U.S. law. This includes the limited work I did for clients with ties to China, including the Ministry of Commerce and Huawei. Specifically, for the Ministry, I participated in a moot court to prepare advocates for a Supreme Court oral argument, and, for Huawei, I did less than 10 hours of work at the firm's request answering general questions about how U.S. administrative law works – specifically in the context of a Notice of Proposed Rulemaking and the subsequent rule-making – including the mechanics of when and how judicial review might occur.

Furthermore, in the course of the nomination process, I have consulted with ODNI's Designated Ethics Official, who in turn, consulted with the Office of Government Ethics to identify potential conflicts of interest, including conflicts based on my prior work for clients. If confirmed, I will continue to consult with these ethics officials to ensure that potential conflicts with any former clients will be resolved in the manner required by the conflicts of interest statutes, standards of conduct regulations, and the terms of the Ethics Agreement that I have executed and which has been provided to the Committee.

For example, as noted in that Agreement, if confirmed, for a period of one year after my resignation from Sidley Austin LLP (which I would tender upon confirmation) I will not participate personally and substantially in any particular matter involving specific parties in which I know the firm is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). Likewise, I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

2. Will you consider candidates for employment at ODNI GC who have worked for entities (or clients) with ties to China or other foreign adversaries?

If confirmed, I would seek to hire candidates who are committed to the ODNI's important national security mission and will enable ODNI's Office of General Counsel (OGC) to provide high quality and timely legal advice to Director Haines and all ODNI employees.

In doing so, I would also seek candidates who could complete a background investigation and be deemed eligible for access to classified information at the Top Secret//Sensitive Compartmented Information (TS//SCI) level. A candidate's foreign connections would be reviewed in the context of making this eligibility determination.

3. Do you agree that the Chinese Communist Party engages in unethical, illegal, and otherwise non-normative business practices as a matter of course in order to advance its technology acquisition objectives?

Yes. I agree with Director Haines that China has grown more authoritarian at home and more assertive abroad, and that the IC must prioritize efforts to counter the threats posed by China, both globally and to the U.S. Homeland.

I also understand that the IC's most recent Annual Threat Assessment, published on April 9, states that the Chinese Communist Party "will continue its whole-of-government efforts to spread China's influence, undercut that of the United States, drive wedges between Washington and its allies and partners, and foster new international norms that favor the authoritarian Chinese system." That assessment goes on to state, among other things, that "China's cyber-espionage operations have included compromising telecommunications firms, providers of managed services and broadly used software, and other targets potentially rich in follow-on opportunities for intelligence collection, attack, or influence operations." If confirmed, I would have access to the most recent intelligence analysis relating to the threat from China. That information will guide any legal advice I provide to Director Haines and others at the ODNI.

4. Do you agree that China's National Intelligence Law, which was enacted in 2017, obligates individuals, organizations, and institutions to assist China's security and intelligence services in carrying out intelligence activities?

Yes. The translations of the Law I have seen contain broadly worded provisions and I know that Director Wray has stated publicly that "China's laws allow its government to compel any Chinese company to provide any information it requests."

5. Do you agree that ostensibly private sector actors like Huawei are, as a function of the National Intelligence Law and their inexorable ties to the Chinese Communist Party, effectively organs of China's intelligence apparatus?

The translations of the Law I have seen contain broadly worded provisions and I know that Director Wray has stated publicly that "China's laws allow its government to compel any Chinese company to provide any information it requests." If confirmed, I expect I would have the benefit of the latest and most complete intelligence regarding how the Law is being applied to Chinese companies, which will guide any advice I provide to Director Haines and ODNI employees.

[From Senator Wyden]

1. For years, the ODNI has released to the public its Annual Statistical Transparency Report Regarding the Intelligence Community's Use of National Security Surveillance Authorities. That report includes

extensive quantitative data on the impact of FISA collection and National Security Letters on U.S. persons. Do you agree that the American public also has an interest in quantitative data related to U.S. person information collected pursuant to Executive Order 12333, including the amount of information collected; queries; disseminations, masking and unmaskings; and use in criminal proceedings?

I believe that the American public has privacy interests that are implicated by the government's collection of U.S. person information, regardless of the authority the government uses to collect it. Consistent with this, I believe informing the public about the IC's activities, consistent with protecting sources and methods, is an important part of the IC's mission, and I would be a strong supporter of such transparency efforts if confirmed.

I am not familiar with the extent to which quantitative data related to U.S. person information collected pursuant to Executive Order 12333 is compiled or what other impediments may exist with respect to making such information publicly available. If confirmed, I commit to engaging with the relevant experts at ODNI and within the IC on this issue and working with the Committee to ensure the IC is taking appropriate steps to provide the American public with transparency regarding the IC's activities, consistent with the need to protect sources and methods and the law.

2. The ODNI has stated that “given the significant constitutional and statutory issues” raised by *Carpenter v. United States*, the IC has not sought cell-site location information (CSLI) records or global

positioning system (GPS) records pursuant to the warrantless authorities of Title V of FISA. DIA has said that it does not construe *Carpenter* to require a judicial warrant to purchase or use commercially-available data for intelligence purposes. Other entities have not been transparent about their interpretation of *Carpenter*. If confirmed, will you ensure that elements of the IC are transparent about their interpretation of *Carpenter*, whether they interpret *Carpenter* to require a warrant for the collection of Americans' geolocation information, and whether that interpretation depends on the context of the collection (e.g., compelled by a FISA order or purchased under EO 12333 authorities)?

I believe informing the public about the IC's activities is an important part of the IC's mission, and, if confirmed, I would be a strong advocate for transparency about the legal basis for the IC's activities, including its interpretation of *Carpenter*, while protecting sources and methods.

Consistent with this, during her confirmation process, Director Haines committed to seeking to articulate and make public, consistent with the need to protect sources and methods, information that would help the public better understand the frameworks within which the IC collects information, including with respect to how the Supreme Court's decision in *Carpenter* is being interpreted and applied. If confirmed, I look forward to supporting these efforts.

[Additional Question from Senator Wyden at the Hearing]

3. If confirmed, will you commit to issuing controlling guidance on the application of *Carpenter* to the IC and making that guidance public?

If confirmed, I commit to doing all I can to ensure the IC is taking a consistent approach to *Carpenter* and then making that approach public, while protecting sources and methods. While I do not understand the National Security Act to authorize the ODNI General Counsel to issue controlling guidance to other departments and agencies within the Executive Branch, it does make it the chief legal officer of ODNI, who performs such functions as the Director of National Intelligence (DNI) may prescribe. Director Haines and I have discussed her expectation that, if confirmed as General Counsel, I would have an important role to play in furthering ODNI's integration mission by helping to coordinate legal issues that cut across IC components. If confirmed, I thus commit to reviewing how IC elements are interpreting and applying the Supreme Court's decision in *Carpenter*, providing the result of my review to Director Haines, and doing whatever I can, consistent with my authorities, to ensure IC elements are applying the Supreme Court's *Carpenter* decision in a consistent manner that is true to the Court's interpretation of the Constitution. Moreover, I believe informing the public about the IC's activities is an important part of the IC's mission, and, if confirmed, I would be a strong advocate for being as transparent as possible about the legal basis for the IC's activities, including its interpretation of *Carpenter*, while protecting sources and methods.

[From Senator Risch]

1. Presidential Policy Directive (PPD) 21 on Critical Infrastructure Security and Resilience states that “it is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats.” In late April of this year, the Biden administration lifted a prohibition levied by the Trump administration on the use of equipment made by Chinese-owned companies on our electric grid.

a. Do you believe equipment manufactured by China-owned entities poses a risk to the security and resiliency of our electric grid?

I agree with Director Haines that China is a national security threat and that protecting our supply chains is necessary to ensure a reliable and resilient communications infrastructure. I understand Congress and the Executive Branch have also repeatedly and increasingly raised such concerns regarding the risk equipment manufactured by China-owned entities poses to our electric grid.

b. Do you support the lifting of the prohibition on use of equipment manufactured by Chinese-owned companies on our electric grid?

I am not familiar with the rationale behind the Biden Administration’s late April action with respect to prohibitions on the use of equipment made by Chinese-owned companies on the electric grid. Consistent with President Biden’s recent Executive Order on Improving the Nation’s Cybersecurity, I believe the government must improve our efforts to identify, deter, protect against, and respond to cyber attacks, including attacks on our electric grid.

c. Did you lobby anyone in the U.S. government about the December 2020 DOE order, or any other federal action barring the use of the company’s products or other Chinese-owned entities products on the U.S. electric grid or communications network, while doing work for Huawei and the PRC’s Ministry of Commerce? Including the U.S. Court of Appeals for the Fifth Circuit lawsuit challenging the FCC’s determination that Huawei is a national security threat?

No. As part of the work you reference, I did not lobby anyone in the U.S. Government on any topic, nor have I had any involvement in the Fifth Circuit lawsuit challenging the FCC’s determination that Huawei is a national security threat.

2. In addition to performing work for Huawei and the People’s Republic of China’s Ministry of Commerce, your initial

questionnaire provided to the Committee notes that you also performed work for the Hong Kong Trade Development Council, which is governed by an advisory council that includes Hong Kong government officials. The Council promotes China’s Belt and Road initiative and its Greater Bay Area initiative.

a. Please describe the nature of your work for the Honk Kong Trade Development Council.

In 2019-2020, at the request of a law firm partner, I contributed to the U.S. section of a quarterly report on global privacy developments provided to the client. My sole involvement was my contribution to these reports, and I do not recall any follow up after the submission of any of the reports.

b. Please provide the names of the individuals with whom you worked who are employed by the Council, if any.

I do not recall ever having personal contact with anyone from the Council as part of the limited work I did for that client. The work I did was at the request of and provided solely to law firm colleagues.

c. Do you believe China’s Belt and Road initiative and its Greater Bay Area initiative run counter to U.S. interests? Why, or why not?

I agree with Director Haines that China is a national security threat and understand that the IC stated in the most recent Annual Threat Assessment that “Beijing will continue to promote the Belt and Road Initiative ... to expand China’s economic, political, and military presence abroad. ...” I have no reason to doubt the accuracy of the IC's assessments.

[From Senator Cotton]

Lawfare

China practices “lawfare” – the practice of projecting illiberal Communist Chinese laws, policies, and norms onto the international system or the legal codes of other countries, or manipulating the legal codes of other countries to advance Chinese Communist Party objectives.

1. During your time at the Department of Justice, National Security Council, or in private practice, have you ever observed evidence of such a campaign?

During my time in government, I did observe the Chinese Communist Party attempting to influence international law or other countries’ laws in an attempt to advance their own objectives. The example I remember best is its rejection of the 2016

ruling of an independent arbitral tribunal concerning China's South China Sea claims.

2. Do you think that the Chinese Communist Party uses private companies, trade associations, or seemingly innocuous government bureaucracies to wage such a campaign?

Yes. I understand the IC's most recent Annual Threat Assessment states that the Chinese Communist Party "will continue its whole-of-government efforts to spread China's influence, undercut that of the United States, drive wedges between Washington and its allies and partners, and foster new international norms that favor the authoritarian Chinese system." I have no reason to doubt the accuracy of the IC's assessments.

3. If confirmed, how would you use your position as the DNI's General Counsel to identify and insulate the United States from such attacks?

As the principal advisor to the President and his leadership team for intelligence matters related to national security, the DNI must ensure that these senior government officials receive the best intelligence possible on which to base policy decisions that provide for the security of the nation as a whole. This would include intelligence on, as the Annual Threat Assessment states, the Chinese Communist Party's "whole-of-government efforts to spread China's influence, undercut that of the United States, drive wedges between Washington and its allies and partners, and foster new international norms that favor the authoritarian Chinese system." If confirmed as General Counsel for ODNI, I would support the DNI in performing these vital responsibilities and advancing the nation's interests, working with my counterparts across the Executive Branch to do so, in a manner consistent with the oath I would take to support and defend the Constitution.

You represented several PRC entities after you left the National Security Council.

4. As a former NSC official, how do you assess that China and other adversarial governments attempt to influence or circumvent U.S. laws and policy?

I agree with Director Haines that China has grown more authoritarian at home and more assertive abroad, and is challenging our security, prosperity, and values in significant ways that no other nation is capable of doing. Because I have been out of government for several years, I do not have the benefit of the latest and most complete intelligence regarding the counterintelligence risk posed by China or other foreign governments, including the risk raised by this question. It is clear, however, that Congress and the Executive Branch have repeatedly raised such concerns. If confirmed, I would have access to the latest intelligence and would use that intelligence to fulfill my responsibilities.

5. Are you concerned that Chinese officials use former U.S. Government officials to collect on or influence current U.S. policy?

I understand that the IC's most recent Annual Threat Assessment made clear that "[t]he Chinese Communist Party ... will continue its whole-of-government efforts to spread China's

influence” and that “China will continue expanding its global intelligence footprint to better support its growing political, economic, and security interests around the world.” I also agree with Director Haines that China has grown more authoritarian at home and more assertive abroad, and is challenging our security, prosperity, and values in significant ways that no other nation is capable of doing.

6. Did you confer with other current or former U.S. officials during your work for these companies?

I do not recall conferring with anyone outside my firm during my work for the Chinese Ministry of Commerce, Huawei, or the Hong Kong Trade Development Council, with the exception of other advocates who were at the moot court to prepare for a Supreme Court oral argument.

7. Why did you not recuse yourself from representing U.S. adversaries, considering that you previously served in sensitive national security positions?

All former government employees, and particularly those in national security positions, have a continuing obligation to the U.S. Government, including ethics requirements and the requirement to protect classified information. Prior to leaving the National Security Council, I sought government ethics guidance from designated ethics officials concerning post-government recusal obligations. I complied with such guidance and continue to comply with my ongoing obligations to protect classified information.

During your time in private practice, you represented the Ministry of Commerce of the People's Republic of China. Your firm filed an amicus brief on the Ministry's behalf arguing that U.S. courts are bound to give deference to the Ministry's interpretation of Chinese laws.

8. How might U.S. courts giving deference to the Chinese Communist Party erode the strength of U.S. laws?

I believe that the Constitution establishes the institutions and processes that create U.S. law, and that U.S. courts when interpreting those laws should not defer to any foreign government, including the CCP, in a way that erodes the strength of U.S. laws.

In *Animal Science Products, Inc. v. Hebei Welcome Pharmaceutical Co. Ltd.*, my firm filed an amicus brief on behalf of the Chinese Ministry of Commerce defending the Second Circuit's determination that a U.S. court is bound to defer to a foreign government's reasonable construction of its own law. I did not work on the brief and only participated in a moot court to prepare advocates for the argument.

The Supreme Court disagreed with the Second Circuit's standard and stated that U.S. courts “should accord respectful consideration,” but are “not bound to accord conclusive effect” to the foreign government's construction of its own law. The Court further stated that “[r]elevant considerations” as to whether the U.S. court should adopt the foreign government's

interpretation of its own law include “the statement’s clarity, thoroughness, and support; its context and purpose; the transparency of the foreign legal system; the role and authority of the entity or official offering the statement; and the statement’s consistency with the foreign government’s past positions.”

9. Do you think this is an example of Chinese Communist Party lawfare?

I believe that foreign governments routinely appear in U.S. courts when the U.S. court is interpreting the foreign government’s law.

10. In what other instances do you think that the United States should defer to the preferences of dictatorships?

I do not think that the United States should defer to the preferences of dictatorships.

You mentioned that you were not aware of any policies by your firm to allow you to decline work for companies that they find morally objectionable.

11. Did you consider declining work for Huawei? Why or why not?

My private practice was principally focused on helping clients understand and comply with U.S. law. This includes the limited work I did for Huawei. Specifically, I did less than 10 hours of work at the firm’s request answering questions about how U.S. administrative law works. I do not believe my prior work would impact my ability to provide objective legal advice to Director Haines or others at ODNI in support of its important national security mission.

12. Do you find Huawei’s work for the Chinese Communist Party in advancing its campaign of genocide against Uyghurs morally objectionable?

I understand the IC stated in the most recent Annual Threat Assessment that “China leads the world in applying surveillance systems and censorship to monitor its population and repress dissent, particularly among ethnic minorities, such as the Uyghurs.” The State Department has also stated in its most recent annual human rights report that “[g]enocide and crimes against humanity occurred during the year [2020] against the predominantly Muslim Uyghurs and other ethnic and religious minority groups in Xinjiang.” I have no reason to doubt the accuracy of those assessments, and I find any support for genocide to be morally objectionable.

13. Do you believe that U.S. officials should be held to a higher standard when deciding whether to provide legal services to brutal dictatorships and their entities under their control?

All former government employees, and particularly those in national security positions, have a continuing obligation to the U.S. Government, including ethics requirements and the requirement to protect classified information. I would welcome the opportunity to work

with the Committee to assess whether any additional restrictions should be placed on these former employees.

14. Did you provide advice to Huawei on how to influence or circumvent any aspects of U.S. export laws or technology control regime?

No. I can assure the Committee that my legal advice in this matter was to help the company understand how U.S. administrative law works, not skirt or circumvent it.

This committee has made caring for injured intelligence officers and their families a top priority. I will soon join several of my colleagues to introduce additional legislation that ensures U.S. government officials injured in hostile attacks have immediate access to the care they need at Walter Reed, especially for brain injuries.

15. If confirmed, will you commit to ensuring that these officers and their families have the best medical care and support available, and review any IC legal guidance or policies that are currently impeding the expedient delivery of care to these individuals?

Yes.

16. Will you also commit to a full, transparent assessment of any attack on an IC officer – including the Anomalous Health Incidents often discussed by the Vice Chairman – even if such an acknowledgement could carry uncomfortable policy implications for others in the Administration?

Yes. If confirmed, I commit to working with the committee to ensure the IC is taking appropriate steps to provide the American public with maximum transparency regarding the IC's activities, consistent with the need to protect sources and methods.

[Senator Cornyn]

1. According to your official biography, you have in the past advised clients on Committee on Foreign Investments in the United States (CFIUS) matters. Did any of your work for Huawei or any entities with any ties to China or the Chinese Communist Party cover CFIUS matters in any way?

No.

2. You stated at your confirmation hearing that you did work for Huawei but did not register under the Foreign Agents Registration Act (FARA).

Could any of the work you did for either Huawei or other foreign entities be construed as such activity that would require you to register under FARA? Do you believe that your work for Huawei or other foreign entities could have or did significantly impact U.S. policy?

I have never personally registered under FARA and do not understand any of the work I did at Sidley Austin to have required registration under FARA. I also do not believe my work for foreign entities could have or did significantly impact U.S. policy.

3. Do you believe that Huawei is devoting a significant amount of time perfecting ways to circumvent CFIUS or retain the services of Americans with knowledge of or experience in government, the intelligence community, or policymaking in order to advance the goals of the Chinese Communist Party at the expense of U.S. national security?

Because I have been out of government for several years, I do not have the benefit of the latest and most complete intelligence regarding the counterintelligence risk posed by Chinese-owned entities, including Huawei, but it is clear that Congress and the Executive Branch have repeatedly and increasingly raised such concerns. If confirmed, I would have access to the most recent intelligence analysis relating to such threats from China. That information will guide any legal advice I provide to Director Haines and others at the ODNI.

[From Senator Sasse]

Huawei

1. What role do you think Huawei plays and has played in the Chinese Communist Party's genocide in Xinjiang?

I understand that the IC stated in the most recent Annual Threat Assessment, "China leads the world in applying surveillance systems and censorship to monitor its population and repress dissent, particularly among ethnic minorities, such as the Uyghurs." The State Department has also stated in its most recent annual human rights report that "[g]enocide and crimes against humanity occurred during the year [2020] against the predominantly Muslim Uyghurs and other ethnic and religious minority groups in Xinjiang." I have no reason to doubt the accuracy of those assessments, and, if confirmed, I would have access to the most recent intelligence analysis relating to this matter, which would guide any legal advice I provide to Director Haines and others at the ODNI.

2. Do you agree with comments by Director Haines on the significant counterintelligence risk Huawei poses?

I know that Congress and the Executive Branch have expressed concerns about the counterintelligence risks posed by Huawei. I agree with Director Haines that

protecting our supply chains is necessary to ensure a reliable and resilient communications infrastructure.

3. What concerns do you have about Huawei and America's national security?

I know that Congress and the Executive Branch have expressed concerns about the counterintelligence risks posed by Huawei. I also know the U.S. Government and Congress have taken a number of steps to protect our domestic telecommunications networks, and, consistent with President Biden's recent Executive Order on Improving the Nation's Cybersecurity, I believe the government must improve our efforts to identify, deter, protect against, and respond to cyber attacks. This includes ensuring that we enhance our supply chain security to protect our critical infrastructure, including our telecommunications networks.

4. What do you understand of the Intelligence Community's extensive unclassified statements and analysis on Huawei?

I understand that, in July 2020, Director Wray stated that, if "Chinese companies like Huawei are given unfettered access to our telecommunications infrastructure, they could collect any of your information that traverses their devices or networks." If confirmed, I would support the continuing assessment of this risk by Director Haines and the ODNI team.

5. Do you think your helping Huawei with rule making helped Huawei comply better with U.S. law?

My private practice was principally focused on helping clients understand and comply with U.S. law. This includes the very limited work I did for Huawei. Specifically, I did less than 10 hours of work at the firm's request answering questions about how U.S. administrative law works.

6. What is your assessment of China's arrest of two Canadians in December 2018, nine days after the Canadians arrested Huawei's CFO? Do you agree that it demonstrates that Huawei is an arm of the Chinese Communist Party, which will go to lengths it goes to protect it?

Because I have been out of government for several years, I do not have the benefit of the latest and most complete intelligence regarding Huawei's relationship with the Chinese Communist Party, including with respect to the subject of this question. If confirmed, I would have access to the most recent intelligence analysis relating to this matter.

7. The ODNI has stated that "China increasingly is a near-competitor, challenging the United States in multiple arenas — especially economically, militarily, and technologically — and is pushing to change global norms." Please explain Huawei's role in this effort.

I know that the IC stated in the most recent Annual Threat Assessment that “[t]he Chinese Communist Party ... will continue its whole-of-government efforts to spread China’s influence, undercut that of the United States, drive wedges between Washington and its allies and partners, and foster new international norms that favor the authoritarian Chinese system.” I also know that Congress and the Executive Branch have repeatedly and increasingly – such as in July 2020 remarks made by Director Wray – expressed concerns about the counterintelligence risks posed by Huawei. If confirmed, I would have access to the most recent intelligence analysis relating to the threat from China and would support the continuing assessment of this risk by Director Haines and the ODNI team.

China

8. Do you agree that China is the preeminent national security threat? If not, please explain.

Yes. As Director Haines made clear in the Annual Threat Assessment, China is “an unparalleled priority for the Intelligence Community.”

9. Do you agree that China’s national security law compels China’s companies to share all and any information with the Chinese Communist Party?

The translations of the Law I have seen contain broadly worded provisions and I know that Director Wray has stated publicly that “China’s laws allow its government to compel any Chinese company to provide any information it requests.” If confirmed, I expect I would have the benefit of the latest and most complete intelligence regarding how the law is being applied to Chinese companies, which would guide any advice I provide to Director Haines and ODNI employees.

10. Do you agree that the Chinese Communist Party wants to become the world’s preeminent superpower and achieve first-mover advantage in the tech realm?

I understand the IC stated in the most recent Annual Threat Assessment, “[t]he Chinese Communist Party ... will continue its whole-of-government efforts to spread China’s influence, undercut that of the United States, drive wedges between Washington and its allies and partners, and foster new international norms that favor the authoritarian Chinese system.” I have no reason to doubt the accuracy of the IC’s assessment.

Ethical Government Service

11. Please describe your understanding of your post-employment restrictions upon leaving the National Security Council related to representing, aiding, and advising foreign governments, particularly the People’s Republic of China, and their national champions like Huawei.

All former government employees, and particularly those in national security positions, have a continuing obligation to the U.S. Government, including ethics requirements and the requirement to protect classified information. Prior to leaving the National Security Council, I sought government ethics guidance from designated ethics officials concerning post-government recusal obligations. I complied with such guidance and continue to comply with my ongoing obligations to protect classified information.

12. Would you commit to not take clients on behalf of the Chinese Communist Party, its tech champions like Huawei, or any other arm of the Chinese Communist Party after leaving government service?

I do not have plans for what I would do after service in government, if confirmed, but commit to following all post-government ethics rules and restrictions.

13. Do you think political appointees and senior civilian service officers who hold senior national security posts should be able to leave government service and then represent or advise the Chinese Communist Party or its national champions?

All former government employees, and particularly those in national security positions, have a continuing obligation to the U.S. Government, including ethics requirements and the requirement to protect classified information. I would welcome the opportunity to work with the Committee to assess whether any additional restrictions should be placed on these former employees.

14. Would you support a ban on National Security Council employees ever working for an entity that is subject to the jurisdiction of the Chinese Communist Party's National Security Law, an element of the People's Republic of China, or designated as substantially responsible for cyber intrusions for the purpose of theft of PII?

All former government employees, and particularly those in national security positions, have a continuing obligation to the U.S. Government, including ethics requirements and the requirement to protect classified information. I would welcome the opportunity to work with the Committee to assess whether any additional restrictions should be placed on these former employees.

15. Will you commit to working with this committee to ensure that IC employees cannot represent or advise the Chinese Government or its national champions after they leave the IC?

All former government employees, and particularly those in national security positions, have a continuing obligation to the U.S. Government, including ethics requirements and the requirement to protect classified information. I would welcome the opportunity to work with the Committee to assess whether any additional restrictions should be placed on these former employees.

16. What do you understand about current restrictions on current IC employees regarding representing foreign governments?

All IC employees have a continuing obligation to protect classified information. In addition, Section 304 of the National Security Act requires reporting of certain employment activities, including “direct employment by, representation of, or the provision of advice relating to national security to the government of a foreign country or any person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized... by any government of a foreign country.” Finally, 18 USC § 207(f) provides for post-government restrictions for senior government officials in representing a foreign entity before any officer or employee of any department or agency of the United States.

17. Did you ever decline to work on any issue during your tenure at Sidley Austin? If so, why?

Yes. Although I did not track the circumstances in which I declined work, I remember doing so because of legal conflicts of interest or ethics requirements, as well as limitations on my time due to other work requirements.